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# HOUSE BILL No. 1917

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-2-14.

**Synopsis:** Racially based traffic stops. Requires the compilation of data concerning traffic stops, including the race of a driver stopped by a law enforcement officer. Provides that the data may not be used in a legal proceeding to establish an inference of discrimination. Requires a law enforcement agency to prohibit racial profiling and to provide sensitivity training. Authorizes the establishment of, or the use of existing, local civilian review boards to investigate allegations of misconduct by law enforcement officers.

**Effective:** July 1, 2003.

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January 23, 2003, read first time and referred to Committee on Judiciary.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1917

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 5-2-14 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

**Chapter 14. Racially Based Traffic Stops**

**Sec. 1. As used in this chapter, "agency" means any of the following law enforcement agencies:**

- (1) The state police department.**
  - (2) A city or town police department.**
  - (3) A town marshal.**
  - (4) A county sheriff's department.**
  - (5) A police department established under IC 20-12-3.5-1 by:**
    - (A) the Ball State University board of trustees;**
    - (B) the Indiana State University board of trustees;**
    - (C) the trustees of Indiana University;**
    - (D) the trustees of Purdue University;**
    - (E) the University of Southern Indiana board of trustees;**
- or**



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(F) the board of trustees of Vincennes University.

Sec. 2. As used in this chapter, "contraband" has the meaning set forth in IC 11-11-2-1.

Sec. 3. As used in this chapter, "minority group" means individuals of African, Hispanic, Native American, or Asian descent.

Sec. 4. As used in this chapter, "motor vehicle" has the meaning set forth in IC 9-13-2-105.

Sec. 5. As used in this chapter, "officer" means a law enforcement officer of an agency.

Sec. 6. When an officer stops a driver of a motor vehicle after June 30, 2004, for a violation of a motor vehicle statute or ordinance, the officer shall report the following information to the agency that employs the officer:

- (1) The age, gender, and race or minority group of the individual stopped.
- (2) The traffic violation alleged to have been committed that led to the stop.
- (3) Whether a search was conducted as a result of the stop.
- (4) If a search was conducted, the following information:
  - (A) Whether the individual consented to the search.
  - (B) The probable cause for the search.
  - (C) Whether the person was searched.
  - (D) Whether the person's property was searched.
  - (E) The duration of the search.
  - (F) If contraband was discovered in the course of the search, the type of contraband discovered.
- (5) Whether a warning or citation was issued as a result of the stop.
- (6) If a warning or citation was issued, the violation charged or warning provided.
- (7) Whether an arrest was made as a result of the stop or the search.
- (8) If an arrest was made, the crime charged.
- (9) The location of the stop.

Sec. 7. (a) Not later than March 1, 2005, and each year thereafter, an agency shall submit to the attorney general a report of the data compiled under section 6 of this chapter for the previous calendar year.

(b) The attorney general shall determine the format that an agency shall use to submit the report.

Sec. 8. The attorney general shall analyze the annual reports of



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1 agencies and prepare a report setting forth the attorney general's  
 2 findings. Not later than June 1, 2005, and each year thereafter, the  
 3 attorney general shall submit the report to the following:

- 4 (1) The governor.
- 5 (2) The executive director of the legislative services agency.
- 6 (3) Each agency.

7 **Sec. 9.** The report of the attorney general required by section 8  
 8 of this chapter must include at least the following information  
 9 concerning each agency:

- 10 (1) The total number of motor vehicles stopped by the
- 11 agency's officers during the previous calendar year.
- 12 (2) The number and percentage of motor vehicles stopped by
- 13 the agency's officers that were driven by members of a
- 14 minority group.
- 15 (3) A comparison of the percentage of stopped motor vehicles
- 16 driven by members of a minority group with the percentage
- 17 of the state's population comprised by that minority group.
- 18 (4) The compilation of the information reported by the agency
- 19 under section 7 of this chapter.

20 **Sec. 10.** Data compiled under section 6 of this chapter:

- 21 (1) may be used only for research or statistical purposes and
- 22 may not contain information that may reveal the identity of
- 23 an individual who is:
- 24 (A) stopped; or
- 25 (B) an officer; and
- 26 (2) may not be used in a legal or an administrative proceeding
- 27 to establish an inference of discrimination on the basis of
- 28 particular identifying characteristics.

29 **Sec. 11.** Before July 1, 2004, each agency shall adopt a policy on  
 30 racially based traffic stops that includes the following:

- 31 (1) A prohibition against a practice of routinely stopping
- 32 members of minority groups for violations of motor vehicle
- 33 laws as a pretext for investigating other violations of criminal
- 34 law.
- 35 (2) A requirement that the agency must periodically review
- 36 the annual report of the attorney general to determine
- 37 whether any officer of the agency has a pattern of stopping
- 38 members of a minority group for violations of motor vehicle
- 39 laws in a number disproportionate to the percentage of the
- 40 population residing or traveling within the jurisdiction of the
- 41 agency comprised by that minority group.
- 42 (3) If a review under subdivision (2) indicates a pattern of

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racially based traffic stops, a requirement that the agency must conduct an investigation to determine whether any officers of the agency routinely stop members of minority groups for violations of motor vehicle laws as a pretext for investigating other violations of criminal law.

(4) A requirement of appropriate counseling and training for an officer if the officer is determined under subdivision (3) to have engaged in racially based traffic stops.

(5) A requirement of annual sensitivity training concerning the prohibition described in subdivision (1) for officers who conduct traffic stops.

**Sec. 12.** The guidelines of the agency regarding racially based traffic stops and the training described in section 11(4) and 11(5) of this chapter must stress:

(1) understanding and respect for racial and cultural differences; and

(2) the development of effective, noncombative methods of carrying out law enforcement duties in a racially and culturally diverse environment.

**Sec. 13. (a)** A county, city, or town may:

(1) establish a civilian review board; or

(2) use an existing civilian review board;

that is appointed by the county, city, or town to investigate allegations of misconduct by the local unit's officers toward members of the public.

(b) The members of the civilian review board shall serve without compensation but shall receive reimbursement from the local governing body for all reasonable and necessary expenses.

**Sec. 14.** A civilian review board established under section 13 of this chapter may:

(1) receive;

(2) investigate;

(3) make findings regarding; and

(4) recommend disciplinary action upon;

complaints by members of the public against the local unit's officers.

**Sec. 15.** A complaint filed by the public with a civilian review board established under section 13 of this chapter may allege misconduct involving:

(1) excessive use of force;

(2) abuse of authority;

(3) discourtesy; or

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(4) use of offensive language, including comments relating to race, ethnicity, religion, gender, sexual orientation, or disability.

**Sec. 16. (a) A civilian review board established under section 13 of this chapter shall submit:**

(1) the findings and recommendations of the board concerning a complaint; and

(2) the basis for the findings and recommendations; to the chief law enforcement official of the agency.

**(b) The board's findings or recommendations may not be based:**

(1) solely upon an unsworn complaint or statement; or

(2) upon a prior unsubstantiated, unfounded, or withdrawn complaint.

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